

IN THE JUSTICE COURT, YELLOWSTONE COUNTY, STATE OF MONTANA

REPRESENTATION IN JUSTICE COURT

UNIFORM JUSTICE & CITY COURT RULES

RULE 14. REPRESENTATION

- (a) A party may represent oneself, or be represented by counsel.
- (b) No representation can be made on behalf of a party by another person except an attorney duly licensed by the State of Montana. A nonresident attorney may be permitted to represent a party upon motion of a licensed resident attorney as provided for under Section 37-61-208, MCA.
- (c) Death or removal of an attorney shall be governed by Rule 10 of the Uniform District Court Rules.

MONTANA JUSTICE AND CITY COURT RULES OF CIVIL PROCEDURE

RULE 2 (a) COMMENCEMENT OF ACTION

(a) A civil action is begun by filing a complaint with the justice or city court. a concise written statement of the cause of action is considered a complaint. **A person as defined in Rule 4 (A) (1) may file individually or through an attorney. All others, as defined in Rules 4 (A) 2, 3, 4 and 5, must file through an attorney.** The individual or the attorney must sign the complaint. Other requirements for the complaint are set out in Rule 7.

**RULE 4 (A) (1)
PERSON**

- (1) an individual, whether operating in the individual's own name or under a trade name;

**RULE 4 (A) 2, 3, 4 & 5
ALL OTHERS**

- (2) an individual's agent or personal representative;
- (3) a corporation, business trust, estate, trust, partnership, or limited liability company;
- (4) any two or more persons having a joint or common interest; and
- (5) any other legal or commercial entity.

QUESTIONS CONCERNING NON-LAWYER ACTIONS IN JUSTICE COURT

CAN I FILE A COMPLAINT AND REPRESENT MYSELF IN JUSTICE COURT WITHOUT AN ATTORNEY?

YES. Except as provided below. Rule 14, U.J.C.C.R. and Rule 2, M.J.C.C.R.Civ.P. state that an individual may represent him or herself or use an attorney. You may prepare and file your own complaint. A business or corporation may require an attorney, read the questions below.

CAN I AS A SOLE PROPRIETOR OF AN UNINCORPORATED BUSINESS FILE A COMPLAINT AND REPRESENT MYSELF AND BUSINESS IN JUSTICE COURT?

YES. You would file your action as John Doe doing business as XYZ. However if your business is a corporation you will need an attorney.

I AM AN OFFICER OF A CORPORATION; CAN I FILE A COMPLAINT AND REPRESENT THE CORPORATION WITHOUT AN ATTORNEY?

NO. YOU NEED AN ATTORNEY. A corporate officer who is not an attorney can not appear on behalf of a corporation. A corporation is a separate legal entity and cannot appear on its own behalf through an agent other than an attorney. *Audit Services-West* (1992), 251 Mont. 142, 827 P. 2d 1242; *Traders State Bank of Poplar v. Mann* (1993), 258 Mont. 226, 234, 852 P. 2d 604 ; *Weaver v. Law Firm of Graybill et al.* (1990) 246 Mont.. 175, 803 P. 2d 1089 and *Continental Realty v. Gerry* (1991), 251 Mont. 150, 822 P. 2d 1083.

CAN I GIVE A FRIEND OR RELATIVE WHO IS NOT A LICENSED ATTORNEY A POWER OF ATTORNEY TO REPRESENT ME IN JUSTICE COURT?

NO. YOU NEED AN ATTORNEY. Rule 14 of the Montana Uniform Rules for the Justice and City Courts prohibit lay persons from practicing law in justice courts. The Montana Supreme Court has confirmed that lay persons are prohibited from representing other persons in justice courts. *Sparks v. Johnson* (1992), 252 Mont.. 39, 44, 826 P. 928, 931 and *O'Neil and Fahrner v. Stadler* (April 8, 1997), Supreme Court Cause No. 97-111.

I MANAGE RENTAL PROPERTY OR APARTMENTS, AS AN AGENT OF THE OWNER CAN I FILE A COMPLAINT AND REPRESENT THE OWNER WITHOUT AN ATTORNEY?

NO. YOU NEED AN ATTORNEY. As a non-lawyer you may not represent others in Justice Court. Rule 14 of the Montana Uniform Rules for the Justice and City Courts prohibit lay persons from practicing law in justice courts. The Montana Supreme Court has confirmed that lay persons are prohibited from representing other persons in justice courts. *Sparks v. Johnson* (1992), 252 Mont.. 39, 44, 826 P. 928, 931; *O'Neil and Fahrner v. Stadler* (April 8, 1997), Supreme Court Cause No. 97-111; *Weaver v. Law Firm of Graybill et al.* (1990) 246 Mont.. 175, 803 P. 2d 1089 and *Continental Realty v. Gerry* (1991), 251 Mont. 150, 822 P. 2d 1083.

NOTE: UNDER THE RULES ONLY INDIVIDUALS MAY REPRESENT THEMSELVES. ALL OTHERS - AGENTS, PERSONAL REPRESENTATIVES, CORPORATIONS, PARTNERSHIPS, JOINT VENTURES, AND OTHER LEGAL ENTITIES MUST FILE THROUGH AN ATTORNEY.